

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT TREADWELL #124392,)	
Plaintiff,)	
)	No. 1:10-cv-560
-v-)	
)	HONORABLE PAUL L. MALONEY
RON ALMY,)	
MICHAEL SINGLETON,)	
CHAD HARDY, and)	
TONY HENRY,)	
Defendants.)	
)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff Robert Treadwell, a prisoner under the control of the Michigan Department of Corrections (“MDOC”), filed a civil rights action against multiple defendants. The complaint alleges that he was removed from his work assignment as an “OD cook” in retaliation after voicing his concerns about the quality of chicken patties being served to prisoners. The magistrate judge has issued a report recommending the claims for injunctive relief be dismissed as moot and Defendants’ second motion for summary judgment be granted. (ECF No. 72.) Mr. Treadwell filed objections. (ECF No. 73.)

After being served with a report and recommendation (R&R) issued by a magistrate judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). A district court judge reviews *de novo* the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Only those objections that are specific are entitled to a de novo review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam) (holding the district court need not provide de novo review where the objections are frivolous, conclusive or too general because the burden is on the parties to “pinpoint those portions of the magistrate’s report that the district court must specifically

consider”). Failure to file an objection results in a waiver of the issue and the issue cannot be appealed. *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *see also Arn*, 474 U.S. at 155 (upholding the Sixth Circuit’s practice). The district court judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Here, having reviewed the objections de novo, the Court finds the report and recommendation accurately states the applicable facts and correctly applies the relevant law.

Mr. Treadwell raised five objections in the petition. First, he claims that he is entitled to injunctive relief even though he was transferred to another facility. Pursuant to the case law cited in the report and recommendation, this objection is meritless. Next, Mr. Treadwell claims the record does not establish that other prisoners rejected the chicken at issue after his complaints were disseminated because there are no prisoner affidavits supporting that fact. Yet, the record contains two affidavits from prisoners who rejected the chicken option because they feared the food was moldy. (*See* ECF No. 25-1 at 3, ¶ 4 and 4, ¶ 3.) Mr. Treadwell’s remaining arguments disagree with the magistrate judge’s interpretation and application of case law, specifically *Siggers-El v. Barlow*, 412 F.3d 693 (6th Cir. 2005). After conducting a de novo review, this Court agrees with the magistrate judge’s interpretations. The report and recommendation found that no clearly established right was violated in this case; the authority cited by Mr. Treadwell does not establish otherwise and involved a situation with material factual differences. Finally, Mr. Treadwell cannot raise a new claim based on his right to access the courts into his suit at this point when it has not been raised previously.

Accordingly, the report and recommendation (ECF No. 72) is **ADOPTED**, over objections, as the opinion of this Court. The claims for injunctive relief are **DISMISSED AS MOOT** and the motion for summary judgment (ECF No. 62) is **GRANTED**.

IT IS SO ORDERED.

Date: December 18, 2013

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge